

Bainbridge Township, Ohio
Board of Zoning Appeals
August 20, 2020

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:10 P.M. by Mr. Michael Lamanna, Chairman. Members present via Zoom were Mr. Brent Barr, Alternate; Mr. Michael Corcoran; Mr. Ian Friedman, Alternate; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Ted DeWater was absent. Ms. Karen Endres, Zoning Inspector was present. Mr. Jeffrey Markley, Bainbridge Township Trustee was present to monitor and host the Zoom meeting.

Due to the COVID-19 Social Distancing guidelines this meeting was held virtually via Zoom.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and stated that individuals will be sworn in when the application is started.

Mr. Lamanna swore in Ms. Karen Endres, Zoning Inspector and he let the record reflect that Ms. Endres was duly sworn.

Application 2020-10 by Marla M. Lucarelli for property at 17310 Tall Tree Trail - Continuance

The applicant is requesting area variance(s) for the purpose of maintaining an accessory building. The property is located in a R-5A District.

Application 2020-11 by Marla M. Lucarelli for property at 17310 Tall Tree Trail - Continuance

The applicant is requesting area variance(s) for the purpose of maintaining a fire pit. The property is located in a R-5A District.

Ms. Marla Lucarelli was present in person.

Mr. Lamanna swore in Ms. Lucarelli and he let the record reflect that Ms. Lucarelli was duly sworn.

Ms. Lucarelli testified that she put together more information for the zoning board in regards to the structure and the fire pit.

Mr. Lamanna said he understands that we are going to move the accessory structure.

Ms. Lucarelli said she would prefer to have a variance to keep the accessory building where it is at.

Mr. Lamanna said okay.

Ms. Lucarelli said if she were to move the structure it would require removal of trees, plantings, fencing and the aesthetic wouldn't fit with the neighborhood, the house, she thinks it would be a deterrent to the value of the home by removing all the landscaping.

Mr. Lamanna asked Ms. Lucarelli if there is additional information she wanted to present beyond what she has already done at the last meeting, do you have additional information.

Ms. Lucarelli said she doesn't know what to present, the size of the building, the location.

Mr. Lamanna said the legal standard is practical difficulty, that is the legal standard on which we judge these things and a practical difficulty.

Ms. Lucarelli said how it would be to move the structure.

Mr. Lamanna said no, the practical difficulty has to do with whether or not there is something about the particular piece of property that would make it unreasonable or impractical to comply with the zoning requirements. He said things like lot shape, topography, people have ravines running through their lots, other natural obstructions, shape of the lot sometimes because you have a somewhat pie-shape lot but we get lots that are a lot more exaggerated than this in terms of pie-shape.

Ms. Lucarelli said sure.

Mr. Lamanna said because of that for example some people have a lot that really tapers down this way so if they want to meet the setback requirements their house would have to be 250' from the road which is an impracticality to put a house back that far when everybody else's house is 100' off the road or 75' off the road so that is the standard for why we would grant a variance so if there is another place that the structure could be put within reason, it is flat enough, available enough then the question is well why don't we put this structure there.

Ms. Lucarelli said okay.

Mr. Lamanna said this is the problem when you come in after the fact because it is not really an argument to say you built this structure or you shouldn't and now it is going to be a nuisance or some expense will have to be made to move it, if somebody had some foundations down to bedrock or something like that we might consider something really unusual, you wouldn't be happy about it but that is the standard, that is what we are looking for somebody to say why should this thing be here, why does it have to be here, there is something about the property that it has to be here versus there are actually other alternate spaces and that may mean clearing some existing vegetation.

Ms. Lucarelli said in the dry area of the backyard there is from all of the neighborhood, when it does flood in the backyard there is a great huge water river that runs on the inside of the fence line in front of and between the evergreen trees and it just goes all the way out to the other side of the property so the structure is not in that wet area so that is the initial reason why it was put where it was because it was flat and it didn't have any of the pre-existing water problems when we first moved there. She said that stone will get filled with water in front of the trees and in-between the trees and it will just swoosh on heavy rain days that we have and now we have to clear out all of the trees, remove the fence so there would be no vegetation.

Mr. Barr said you do not have HOA approval for your shed where it is at, they would only give you approval if it was moved inside the fence, correct.

Ms. Lucarelli said correct.

Mr. Lamanna said that creates a problem for you because the lack of approval is a very strong indication that this is not in conformity with the neighborhood standards and would adversely affect the neighboring properties, that are two other big factors that we consider and when the association does not approve it that is pretty strong evidence that the association has that position.

Ms. Lucarelli said she believes it is her understanding that the association hasn't disapproved of the aesthetic of the building, she believes that they are just not approving it because it is not in that setback and that is the only reason they are not approving it, aesthetically she thinks it is okay.

Mr. Lamanna said we are not looking at this thing from an aesthetic standpoint we are looking at it from a zoning standpoint which is whether the character of the neighborhood is such that people aren't putting sheds in the 50' setback area no matter how nice they might look.

Mr. Gutoskey asked Ms. Endres if she could bring up the topo on this property.

Mr. Lewis said he has a couple of comments on this. He said he is looking at correspondence from Laura Cramer who runs the homeowners' association over there and has also spoken with her. He said Canyon Lakes was developed with a lot of judgment entries legally and they have very finite restrictions on structures, setbacks, side and rear, minimum house size and you need to follow within that. He asked Ms. Lucarelli if she knows the board was copied from Laura Cramer to the applicant that also clearly states that it has been denied where it is and they have suggested a new location which does conform to the deed restrictions and setback requirements so aesthetics aside, there does not appear to be any wiggle room on this, it needs to fit within the deed restrictions of the covenants of the HOA and the judgment entry so without kind of sounding harsh it either needs to go away or move within the perimeters that are permitted. He said at that point even with the perimeters there is HOA approval and they specified that but outside of it they have denied it.

Mr. Gutoskey asked Ms. Endres to bring the topo up on that. He said he was able to bring it up on his other computer and he doesn't see a swale cutting through the yard there, it just looks like it has got a general roll across the yard from right to left, it looks like it falls 10' from the southeast to the northwest. He said the contours all look like they kind of go across at an angle, it just looks like it is pretty general, he doesn't know if the landscape bed is raised up but looking at the county topo it doesn't look like drainage is an issue.

Mr. Lamanna asked how big the gravel area is.

Ms. Lucarelli said she couldn't tell you.

Mr. Lamanna asked how far does it extend, is it on both sides. He asked Ms. Endres to measure this gravel area that is all around this building.

Ms. Lucarelli said it is like a path.

Mr. Lamanna said but it is lot coverage.

Ms. Endres said because of the judgment entry lot coverage does not apply to Canyon Lakes, it is a cluster subdivision.

Mr. Gutoskey said it looks like there is a swale behind there but other than that he doesn't see any.

Mr. Lamanna said one of the other problems is we are starting off with a situation where yes this is developed on tight lots to begin with and since we started off with not a lot of room extending the footprint of the development out to the edge of the property, the board is less inclined to do that, there is less basis for doing that when you are already looking at only a 50' rear yard setback to begin with so the fact that the ultimate judgment entry on this was 50' rather than the normal amount in the way this was structured now building all of this stuff within that and it is not just the structure itself it is all of the gravel and everything else around the structure and leading to the structure so it is the footprint of the structure and a big gravel area around it so it is really even bigger than we are talking about.

Ms. Lucarelli said she wants to put it on record that it was never her intention to move back to Bainbridge and to wind up here, she wanted to improve her home that she purchased and make it great for her family and she never intended to.

Mr. Lamanna said nobody is saying that you did this maliciously or anything like that, nobody is saying that that is the case.

Ms. Lucarelli asked how long does she have to make the adjustment to bring it into the 50' compliance, how long does the department enable her to fund and find someone.

Mr. Lamanna said if you say you are willing to do this we will give you a very reasonable period of time to do it, we are not going to say we want it done in 30 days, we will give you something reasonable, if you tell me you need three months, he doesn't think anybody is going to mind.

Ms. Lucarelli said when she first arrived here she had a contractor initially with a backup but they have gone MIA, they have not returned any of her calls so she would have to find somebody willing to do everything, she would pay for it and redo the landscaping in order to move the playhouse structure.

Ms. Endres said she just wants to clarify something earlier, Canyon Lakes is allowed 20% for the whole subdivision so there is really not a per lot standard for lot coverage.

Mr. Lamanna said whether it is a lot coverage requirement or not the amount of encroachment when you look at the size of the variance being requested it magnifies the size of the variance being requested because of the building and everything else.

Ms. Lucarelli said if she were to take, were we talking about the gravel area included in the encroachment because she was thinking if she were to take the gravel, remove that and replace it with mulch, that is not an impeding substance.

Mr. Lamanna asked if this fence is here for some particular purpose, is it just decorative.

Ms. Lucarelli said no she has animals.

Mr. Gutoskey said if she agrees to move it we have to give her until sometime until next year because she is not going to find anybody, the weather is going to start changing. He said another thing in the correspondence is the HOA is asking for restoration or the seeding of the gravel area.

Mr. Lamanna asked how wide or how deep is this building.

Ms. Lucarelli said she can't tell you.

Mr. Lamanna said the print is way too small.

Mr. Gutoskey said he can read it and it is 10.2 x 24.2.

Mr. Lamanna said the only possibility he can see is moving it right up next to the fence, would that be substantially easier.

Ms. Lucarelli said absolutely, maybe she would only have to move two trees.

Mr. Lamanna said he doesn't know if the homeowners' association would be okay with that and he is not exactly sure how much variance we have at that point.

Ms. Lucarelli said it might fall right on the 50' line by doing that.

Mr. Lamanna said if you stick it right up in that corner right up next to the fence.

Mr. Gutoskey said if you did that it would be sitting about 5' over just scaling it on the drawing here, at the far end the front is about 7' from the 50' line and come over 24' it is about 6', if you brought it up to the fence you would be hanging about 4' over the 50' line give or take. He said another question is if you go that much and try to set the back on the setback line.

Mr. Lamanna said the question is when you reach the fence what is immediately on the other side of the fence.

Ms. Lucarelli said Spruce trees.

Mr. Lamanna said it is hard to tell from the pictures.

Ms. Lucarelli asked on the inside, correct.

Mr. Lamanna said right and if we go down on that iron fence to the point where you are 25' from the side line where the building would be, so he comes up to the fence, is the other side of the fence immediately all treed.

Ms. Lucarelli said to her recollection there are five Arborvitaes, and then there are Spruce and Hemlock, kind of mixtures.

Mr. Lamanna said so this is what has been planted.

Mr. Gutoskey said by the fence there is a picture in the packet so there is an idea of what is there.

Mr. Lamanna said he can see the fence.

Ms. Lucarelli said that is the fence and then right on the inside, that starts the Arborvitae and they have a Blue Spruce, Forsythia, a pretty established Buckeye tree and then there are Maples and on the other side we have some Silver Maples and she believes there are Tulip trees.

Mr. Lamanna said it looks like it is pretty clear up to that point, up to the fence.

Ms. Lucarelli said in the spring there are 1,000 Daffodils, that is the only thing that she would rather pull all of the Daffodils out and plant them elsewhere. She said at the back side looking from the greenspace of the HOA looking into the structures on the lot and then the house.

Mr. Lamanna asked about the back of the house. He said it might make sense to rotate it and the only reason he is saying that is because when you put the back up against your fence, you can still get to the door because there is still room to walk around and you can always put a gate in the fence would be the other option so you can go right out the gate and into the door there.

Ms. Lucarelli said she has a back gate that can easily be pulled and restructured and that wouldn't be too costly so she wouldn't be purchasing another gate because gates are expensive.

Mr. Lamanna said you can think about what works better for you but he doesn't know what the rest of the board members think but he can see moving it right up to the fence there because it will be less than 5' over and you are only looking at a 10% variance at that point in time and we would just have the structure there and get rid of the gravel, take away the gravel.

Ms. Lucarelli said she would plant Ohio native wildflowers.

Mr. Lamanna said what you want to plant in there is up to you, you could put mulch as long as there is something in there so you won't have an impervious surface there. He asked the other board members how they feel about that.

Mr. Gutoskey said he is okay with that, there are a couple of big trees right in front of the fence and it looks like behind there are just a couple of small trees they would have to get rid of but it would only be a 5' variance.

Mr. Corcoran said he agrees with Mr. Gutoskey, it would be tough to take out those big trees and still hold the aesthetics of the property.

Mr. Barr said he is okay with all of it.

Ms. Endres said she wanted to clarify and understand what everyone is saying. She said the playhouse is here right now.

Mr. Lamanna said it will be moved right at the end of the fence in that corner, there will be a little bit sticking up about 5'.

Ms. Endres said it will be parallel to the fence.

Mr. Lamanna said it will be parallel to the fence.

Mr. Gutoskey said worst case would be 5' and on the other side it would only be 2' or 3'.

Ms. Endres said so we would still be maintaining that 15' sideline setback.

Mr. Lamanna said yes we would be maintaining the sideline setback.

Ms. Lucarelli said that is important for her for her neighbors.

Mr. Lamanna told Ms. Lucarelli to pick a spot in here that works best for you and that way you would have a little room between there and wherever you put it and you have to figure out what is the least amount of clearing you have to do.

Ms. Lucarelli said sure.

Mr. Lamanna said you have some wiggle room in here to find the best spot as far as removing existing obstructions and like he said the board will give you a 5' variance on one side and you will actually be less than that on the right side there.

Ms. Lucarelli said she sees that.

Mr. Lamanna said because of the way the fence runs.

Ms. Endres said it would be more than a 5' variance.

Mr. Lamanna said you have to stay within 25' of the property line because otherwise it is tapering away.

Ms. Endres said currently it is 22' from the property line, the building is 10'2" and it looks like it is 20' then to the 50' setback so it is going to be closer.

Mr. Gutoskey said if you move it to the fence in that corner the closet the shed will probably be to the rear line is 45'.

Ms. Endres said okay.

Mr. Lamanna said obviously we like to keep it close to the 15' sideline because otherwise you are going to be creeping towards that 5' and you will be really close to the 5' but if you are within 10' of it you should be okay but you can look and see and maybe it makes sense to be 5' away because then there is something you don't have to cut down on the other side.

Ms. Lucarelli said she will call Kerry her surveyor and have him stake it all out.

Mr. Lamanna said that is the best thing, then there are no issues, you will know exactly where you can go with it.

Ms. Lucarelli said she appreciates it.

Mr. Gutoskey said he could stake that line out for you and then you can position the shed within there where it fits between the line and the fence.

Mr. Lamanna said you can figure out the best spot for it.

Ms. Lucarelli said a little less cutting down.

Mr. Lamanna said you can optimize the spot. He said we need to discuss the firepit and asked where that stands.

Ms. Lucarelli said the HOA is okay with it.

Mr. Lamanna asked where it is.

Ms. Lucarelli said yes.

Mr. Gutoskey said he is okay with it and she is going to cut down on that gravel.

Mr. Lamanna said right, he thinks obviously we would like to see maybe 4' or 5' of gravel around it just for fire control purposes.

Ms. Lucarelli said she is going to keep the pea gravel around the firepit because that gives you that safety but the limestone, she can put the mulch and she can put the natural plants that is something she enjoys doing, it will be really pretty.

Mr. Lamanna said it looks like you have plenty of room around it so that is good and we want to make sure you don't end up with any fires from the firepit, you don't want that and we don't want that but it looks like it is a very well-constructed firepit, it has its own rim around it and its got an area around it beyond that. He asked the board members if they have any issue with this, he thinks it is small enough that he doesn't think it really is a problem.

Mr. Barr said no issue from him.

Mr. Lamanna said it is de minimis in his view. He asked if there is anybody else who wishes to say anything on this application.

There was no response.

Since there was no further testimony, this application was concluded.

Motion BZA 2020-10 – 17310 Tall Tree Trail

Mr. Lamanna moved to grant the applicant a variance to the rear yard setback of 50' for the purposes of relocating an existing accessory building.

1. A variance to the rear yard setback of 5'.
2. The applicant is going to relocate the accessory building so that it is adjacent to the existing iron fence and will keep it towards the corner of the property where it is currently located and will keep it within the 15' side yard setback.
3. The applicant is going to have the location surveyed so that they can properly position the structure so it is within the location granted for the variance.
4. In addition the applicant is going to take away the existing gravel pathways around the structure and restore them to some kind of a natural setting either mulch, grass, plantings at the applicant's discretion.
5. Because of the work that has to be done here, surveying and everything else, the board will give the applicant until July 1, 2021 to complete the relocation of the shed and the restoration of the gravel area.

Motion BZA 2020-10 – 17310 Tall Tree Trail - Continued

Based on the following findings of fact:

1. The applicant has existing landscaping and an existing fence that would make it very difficult to move the building to the other side of the fence.
2. The applicant has also indicated that there are some potential water issues on the other side of the fence and by relocating the structure to the outside of the fence area it substantially limits the complications of moving the structure and as well means that a large amount of existing landscaping plants and trees in that area would not have to be moved or replaced.
3. It will only be a 5' encroachment into the setback area so this is a relatively small variance and it will not adversely affect the character of the neighborhood or adversely affect the neighboring properties.

Mr. Gutoskey seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

BZA Motion 2020-11 – 17310 Tall Tree Trail

Mr. Lamanna moved to grant the applicant the following setback variance for the purposes of maintaining a firepit of the size that is shown in the application.

1. A variance to 9.8' from the minimum required setback of 50' from the rear setback for the actual firepit itself.
2. In addition to the firepit the applicant will maintain up to a 4' stone buffer area around the firepit for the purposes of controlling any sparks that might escape from the firepit.
3. The location of this firepit is as shown on the drawing that has been submitted.

Based on the following findings of fact:

1. It is a very small structure, it is very low, it is one foot high.
2. It is a nicely constructed firepit so it is well designed to maintain control of the fire.
3. It is well cleared around it and it will be pretty much unnoticeable from many of the adjacent properties and will not adversely impact the area behind this property.

Mr. Gutoskey seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2020-14 by Jeff Varney for property at 19036 Brewster Road - Continuance

The applicant is requesting area variance(s) for the purpose of constructing a detached garage. The property is located in a R-3A District.

Motion BZA 2020-14 – 19036 Brewster Road

Mr. Lamanna moved to dismiss this application without prejudice at the request of the applicant.

Mr. Lewis seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2020-17 by Virginia and Chris McClure for property at 7047 South Street (aka 40 South Street) - Continuance

The applicants are requesting area variance(s) for the purpose of constructing a detached garage. The property is located in a R-3A District.\

Mr. Christopher McClure and Mrs. Virginia McClure, applicants was present via Zoom to represent this application.

Mrs. Beverly Arnold, adjacent property owner and Mr. Anthony Calabrese, on behalf of Mrs. Arnold were present in person.

Mr. Lamanna swore in Mrs. Virginia McClure and he let the record reflect that Mrs. McClure was duly sworn.

Mrs. McClure testified that they decided to move forward with the variance that was granted in 2002, pretty much those exact plans that were made by that prior owner so they had a surveyor come out and do the site plan showing 5' from the side yard property line instead of the 6" that they had tried for last month and hopefully the site plan can be pulled up.

Mr. Lamanna asked if they have a revised site plan.

Mrs. McClure replied yes.

Mr. Lamanna swore in Mr. Christopher McClure and he let the record reflect that Mr. McClure was duly sworn.

Mr. Lamanna said you moved things over so they come back in conformance with the originally granted variances. He said the board had questions and asked if those questions are resolved.

Ms. Endres, Zoning Inspector testified by saying she thinks the question had to do the way the motion was made last month, there were some other variances that were not addressed in the hearing in 2002.

Mr. Lamanna said right, that is what he wanted to make sure it got corrected.

Ms. Endres said this is actually two lots instead of one so we have the question of replat versus affidavit.

Mr. Lamanna said just so you understand what Ms. Endres is saying is that these show as platted two separate lots so generally what we are asking you to do rather than trying to merge the lots because it is very difficult and expensive to do in your type of situation is to file an Affidavit of Fact basically acknowledging that these two separate lots are being treated as a single lot for the property and we can provide you with a format for doing that and it is to be filed with the county recorder.

Mrs. McClure said okay.

Mr. Lamanna said it basically establishes it as a single lot and then we will go ahead and apply the variances that are necessary because it is an internal lot line.

Mrs. McClure said okay.

Mr. McClure testified by saying sure.

Mr. Lamanna said we are okay on the side yard from the previous variance.

Ms. Endres said right.

Mr. Lamanna asked if they are okay on the lot coverage, it looks like it is, he sees 38.6%.

Ms. Endres said right versus, she believes 33% was granted in the previous hearings, she can't figure where they came up with 33%, when she factors out the road right-of-way area she is coming up with 38.6% lot coverage which is greater than the amount of lot coverage that was granted in 2002. She said she doesn't think the diagram in 2002 is evaluated as if it were two front yard driveways, the lots are configured end on end between Cedar and South Street so its got frontage on Cedar and frontage on South Street so it is a 100' setback that applies from the road rights-of-way.

Mr. Lamanna said on the Cedar Street side they are quite away back from the street.

Ms. Endres said the survey came in after she did her staff letter.

Mr. Gutoskey said it looks like it is okay from South Street. He said this plat goes to the centerline of the road.

Ms. Endres said it does.

Mr. Gutoskey said it looks like they will be okay on South Street because it would be over 100', they would be 105.3 so they are okay on South Street but they would need a variance on Cedar.

Mr. Lamanna said as would everybody else on Cedar.

Mr. Gutoskey said yes.

Mr. Lamanna asked if that setback was granted on the original.

Mr. Gutoskey said 2002 would have been from 100'.

Ms. Endres said it looks like in 2002 they gave a 52' setback from Cedar.

Mr. Lamanna said they must have had something else back there, farther.

Ms. Endres said the revised site plan shows the proposed drive at 40.1'.

Mr. Gutoskey said that is from the right-of-way.

Ms. Endres said she thinks what they are going to need is a 40.1' setback from the Cedar Street right-of-way. She said previously it looks like 52'.

Mr. Lamanna asked Ms. Endres what the dimensions are for the front of the house, what is the setback from South Street.

Ms. Endres said the house is 25'.

Mr. Gutoskey said the house is 25.2'.

Ms. Endres said she doesn't think they are going to need a variance from South Street because it looks like it is completely on the Cedar Street lot, the lot width is 112.5' and it is set back even further from that line between the two lots that Turners own.

Mr. Gutoskey said right, the garage doesn't need a variance from South Street.

Ms. Endres said she thinks we are okay on South Street.

Mr. Gutoskey said it is okay on South it is just on Cedar.

Ms. Endres said at the time she wrote the staff letter she had not acquired the site plan yet.

Mr. Lamanna said so the setback from South Street is existing 25'.

Mr. Gutoskey said 25.2' to the existing house yes.

Mr. Lamanna said if we are doing all of these modifications we might as well establish that as the approved setback variance. He said at the end of the day he would rather have the property as its now built stage or as built stage and have a variance for all of its existing setbacks and not have variances for everything except the front yard setback which is a pre-existing non-conforming use.

Mr. Gutoskey asked if we need to do the side yard.

Mr. Lamanna said the side yard is alright, we will just refer that from the previous decision. He asked if that covers everything.

Ms. Endres said just the internal lot lines.

Mr. Gutoskey said and anything as far as making sure the drainage is directed away from the adjacent parcel as far as gutters on the garage.

Mr. Lamanna swore in Mr. Anthony Calabrese and he let the record reflect that Mr. Calabrese was duly sworn.

Mr. Calabrese testified that he is not here as an attorney or as a real estate professional he is here on behalf of Mrs. Arnold who for health reasons asked him to be here tonight to speak on her behalf if he may.

Mr. Lamanna said sure.

Mr. Calabrese stated that last time as this board knows the request was initially for a 6" side setback off of Mrs. Arnold's property which Mrs. Arnold vehemently opposed, she is pleased to hear tonight that the McClures have rescinded that request and are reverting to the 2002 variance with a 5' side setback, if he understand the dialogue correctly.

Mr. Lamanna said yes you did.

Mr. Calabrese said that Mrs. Arnold would like it put into the record that her two concerns do remain and this may be more of a building department concern but she wanted him to state tonight is one, her bedroom is a mirror few feet from where the garage is going and being that there will be cars in the garage she is concerned about potential fire hazards and whatnot so she hopes that the new structure conforms to whatever requirements the township has on such construction being so close to her home so that would be one concern that she would like put on the record to the board this evening. He said the second concern she has was touched on by one of the board members, he believes, the drainage issue, Mrs. Arnold just found these today after looking for weeks since the last meeting, we would like to submit these to the board. He said this shows that there is an absolute pond that forms that this board is well aware of on South Street and Cedar Street when it rains it is a flood zone, flood area, and Mrs. Arnold is concerned that this new structure will drive additional water into her property so whatever building requirements and other regulations would be enforced by this body and other bodies of the township she would like it put on the record that hopefully that will be addressed as well during construction so long as the request remains similar to the 2002 request, she withdraws her opposition on the side setback issue. He referred to the photos that Mrs. Arnold brought to the meeting and said this is their yard when it rains where the garage will be going.

Ms. Endres said currently from a zoning perspective there is currently no setback requirements between buildings, that is one of the things that is being considered for this upcoming amendment.

Mr. Lamanna asked is there any requirements on detached garages.

Ms. Endres said not that she is aware of, there are requirements for wells and possibly septic systems.

Mr. Lamanna said for example on a house if you have an attached garage you've got to have 5/8" drywall on the occupancy side of the house. He asked the McClures if they are planning to drywall this garage.

Mrs. McClure asked if the plans can be pulled up from last month's board meeting that had the contractor's building drawings, they were in the packet from last time and they have the more detailed description of the construction and the gutters, the siding and roof and everything so those would have probably more details on the drywall.

Mr. Gutoskey said in his experience where we run into the fire code is when you start to get less than 10' between buildings and in looking at that their garage is going to be a 5' setback and from the site plan it looks like Mrs. Arnold's house is almost 6' off so it would be more than, typically when you are 10' or less both walls have to be fireproofed and fire resistant windows and everything.

Mr. Lamanna said it is not that big of a deal to put in thick enough drywall to deal with that.

Mr. Calabrese said and the drainage issue obviously.

Mr. Lamanna said they are going to have to present a plan to manage the storm water, they will have to put in gutters and manage the water so it doesn't go onto the adjacent property.

Mrs. McClure said the garage plans haven't changed, just the location of the garage that changed but building plans have not changed from the last time.

Mr. Lamanna said he thinks she has raised a good point and this is something we should be considering all of the time when we look at these garages that they be drywalled out and the finish drywall has to be well taped, fire taped.

Mr. Gutoskey said in looking at the building plans he doesn't see any detail as far as drywall.

Mr. Lamanna asked if that is a problem for the applicant to go ahead and do that, the drywall.

Mr. Chris McClure testified that he wants to understand the specific request here because he believes the contractor we are using, this is not the first time, they have done this many times and they have gone with the standard garage package that they had so he is happy to look into what that looks like a little bit further but this is not the first project like this that they have done. He asked what the specific request is.

Mr. Lamanna said basically if you have a garage that is attached to your house the house side has to be done in 5/8" drywall a burn standard so it is a little thicker than a half inch and typically they use that on ceilings anyway a lot of times in houses because there will be less sag on the ceiling if you use 5/8" drywall rather than 1/2" so the inside would be finished with drywall 5/8" thick drywall and 5/8" is not that big of a deal.

Mr. McClure said he is not certain that the plan had finished drywall, many of these detached garages do not do that, as you know are roughed in so he is going to defer to the original plan of the garage, they are happy to take a look at that and see if that makes sense.

Mrs. McClure said they also need to check with the contractor.

Mr. McClure said he will speak to the contractor and see what makes sense and see if that is not too difficult to add that if that is what makes everybody happy, he is sure it is not an issue. He said he just has to defer to the original contract.

Mr. Lamanna said it is a very legitimate concern in an area like this and typically any attached garage is all drywalled.

Mr. McClure asked if the photo of the garage can be brought back up, the aerial view and he thinks he wants to revisit that, it is a little bit further than everyone is maybe thinking but he certainly understands the concern and it may make a little more sense when you look at that aerial view, if we have 5' there and an additional, he thinks it is 12' feet from our home he can only imagine that it is considered to be from theirs.

Mr. Gutoskey said it looks like the back of the two houses line up so the garage will be 23' behind the other house.

Mrs. McClure said wouldn't it actually be directly next to her home it is much further back and with the 5'.

Mr. McClure said one of the gentleman said it was coming in around 23' so his point just was that they will certainly take into consideration and talk to their contractor about the additional safety and all of that however he thinks it is just a little bit further than maybe it was originally presented and hopefully that is not going to cause an issue.

Mr. Corcoran said so the garage will be past the end of the driveway on the second part of your lot and not adjacent to the house and the existing driveway area.

Mr. McClure said that is correct and the view that he is looking at he doesn't actually see the area where the garage would be it would actually be below or lower on the screen, maybe it is just his view, he doesn't know if everyone sees the same thing that he does but the drive doesn't begin until something that is off-screen there.

Mr. Gutoskey said but it actually is if you look at the drive the front of the garage lines up with rear tip of your deck or patio there.

Mr. McClure said yes.

Mr. Lamanna said he thinks if it is over 20' he doesn't see that as an issue and asked Mr. Gutoskey if it looks right to him.

Mr. Gutoskey said it is because they are showing the garage 20' from the house and looking at the site plan, the rear of these two houses line up which you can see from that aerial too so it will be over 20' from the other house.

Mr. Corcoran said so basically it is independent of itself and not near any other structures at all.

Mr. Gutoskey said that is what he is seeing and asked if we could zoom in on the site plan you can see because it looks like they located the back of the other house too and Arnold's lot there, they have a dimension of 6' to the house corner, if you zoom in on that a little bit you can see the garage is 20' behind the house.

Mr. Lamanna said the back of the houses line up.

Mr. Gutoskey said it looks like from the aerial that the rear of the houses pretty much line up.

Mr. Calabrese said they have raised their concerns and he agrees with the gentleman that the houses are lined up.

Mr. Lamanna said he thinks with 20' it is not the same concern as 10' away, if it was less than 10' away you should drywall this thing out, he would drywall it if it was that close to the house and deck. He explained that he saw somebody's garage go up on his street it was not a pretty sight, they had problems with a car and a catalytic converter and it set a huge Pine tree on fire. He said the only other issue is the drainage so the water will be directed back towards the street, one street or the other so it doesn't go onto the adjacent property.

Mrs. Arnold requested her pictures back from the board.

Since there was no further testimony, this application was concluded.

Motion BZA 2020-17 – 7047 South Street (aka 40 South Street)

Mr. Lamanna moved to grant the applicants the following variances for the purposes of constructing a detached garage shown on the plans submitted by the applicant, the most recent survey plans.

1. The board notes that there are existing variances from 2002-17 with respect to side yard setback to 5' and to 35' and we confirm those variances.
2. A variance was granted from the required rear yard setback and was noted as 90' but since there is another street here, that should have been from 100' to 52' so that rear setback will be modified to be 60' from the 100' to an actual 40'.
3. With respect to the lot coverage it is unclear how the lot coverage was calculated in 2002 but it might well have been calculated on the basis of the full lot size to the center of the street which means that it is looked at as less than it actually is based upon the current standards where the street right-of-way is not counted in the lot coverage so the lot coverage is modified to 38.6% that is calculated based upon current methodology and the current plans submitted.
4. The board also grants a variance with respect to the accessory building size to 400 sq. ft. versus 300 sq. ft. on a non-conforming lot. This is a new provision that became effective after the previous variance was granted.
5. With respect to the front yard setback the existing house is 25' from the South Street side. The board will grant a variance to 25' for the front yard setback from the required 100' so all of the non-conformances are covered with the appropriate variances.
6. This property is actually composed of two lots. The applicant has agreed to submit an Affidavit of Fact to the county recorder on a form that is provided by the township to acknowledge that these two lots will be treated as a single lot for all purposes with respect to zoning and therefore the board grants whatever variances are necessary with respect to the internal lot line between sublots 11 and 12 as they relate to their platted existence as separate lots recognizing that since they are being treated as a single lot they will have the variances the board previously discussed looking at them as a single lot but from that it will be deemed that appropriate variances are granted with respect to that internal lot line for the setbacks from that internal lot line of any structure as well as the individual lot coverage calculations of those two sublots so long as the requirements are satisfied with respect to the two lots considered as one.
7. The applicant has acknowledged and agreed that the detached garage will have appropriate gutters for the collection of rainwater and the drainage from those gutters will then be directed toward either Cedar or South Street and conducted to one of those two locations in such a way as to prevent it from flowing directly onto the neighbor's property adjacent to the location of the detached garage.

Motion BZA 2020-17 – 7047 South Street (aka 40 South Street) - Continued

Based on the following findings of fact.

1. The board is granting these additional variances primarily to conform to a previous decision of the board, 2002-17, based upon the findings of fact in that board's decision and also with the findings that these lots will have an Affidavit of Fact to satisfy.
2. As so modified herein the variances granted will not alter the character of the neighborhood nor will they adversely impact, with the conditions and requirements, the adjacent property owners.

Mr. Lewis seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2020-20 by Scott Stewart for property at 8284 E. Washington Street

The applicant is requesting area variance(s) for the purpose of adding a patio area for a microbrewery. The property is located in a CB District.

Mr. Joe Gutoskey recused himself from this application.

Mr. Ian Friedman, Alternate replaced Mr. Gutoskey for this application.

Mr. Friedman asked if there is counsel for this application because Ms. Bridey Matheney is present and he wanted to bring up the issue ahead of time and make a public declaration that there is an existence of an attorney-client relationship in that regard so he wanted to know if it was this matter.

Ms. Matheney stated that she is representing the Federated Church Family Life Center.

Mr. Tom Vokas, property owner and Mr. Scott Stewart of the Crooked Pecker Brewery were present in person to represent this application.

Ms. Judy Garver and Ms. Christine Katic were present in person to represent the Trees Condominiums on Wren Road.

Mr. Lamanna noted that Mr. Gutoskey has recused himself from this application and we have an alternate member available, Mr. Ian Friedman so he is going to step in in his alternate capacity for this application so we will actually have a full board here to hear the application.

Mr. Lamanna swore in Mr. Tom Vokas, Mr. Scott Stewart, Ms. Judy Garver and Ms. Christine Katic and he let the record reflect that Mr. Vokas, Mr. Stewart, Ms. Garver and Ms. Katic were duly sworn.

Mr. Scott Stewart testified that he would like to put a 30' x 36' outdoor patio on the north side end of the building for the purpose of providing a nice safe outdoor environment for their customers. He said currently we are adhering to social distancing and using some of the parking lot area for keeping social distancing but if we eliminate that we would be just using the patio.

Mr. Lamanna asked if this is an actual structure you are contemplating.

Mr. Stewart said no, Mr. Vokas his landlord used to store delivery vehicles on that end of the building so there is already a gravel base there, they are just going to leave it a gravel base, clean it up and fence it.

Mr. Lamanna said he was going to say, he thinks you have to fence it.

Mr. Stewart said the State of Ohio Division of Liquor Control does not say we have to.

Mr. Lamanna said so currently you have an inside part of your establishment.

Mr. Stewart said that is correct.

Mr. Lamanna asked if the access is going to be from inside the building.

Mr. Stewart said yes from inside the building.

Mr. Lamanna said from inside the building to the patio.

Mr. Stewart said that is correct, they already have a door that they can use for access to that area and what we would do as far as fencing goes, along the section on the eastern end that faces Wren Road they would have a privacy fence on that side and open fencing so the customers can see the woods behind them for the remainder and then they would put parking bollards or concrete blocks surrounding that so they won't have any incidents.

Mr. Lamanna said that is a huge concern of ours now. He asked what the typical operating hours are.

Mr. Stewart said they are open three days a week, Thursdays and Fridays, 3:00 P.M. till 10:00 P.M. and Saturdays, Noon till 10:00 P.M.

Mr. Lamanna asked if this will be a tabled area, will you have tables.

Mr. Stewart said tables and chairs and probably some umbrellas to block the sun.

Mr. Lamanna asked if they will have waitress service there or do you have to go in and get your stuff and bring it out.

Mr. Stewart said they don't have waiters or waitresses.

Mr. Lamanna said you have to go in and go to the counter and get your stuff and bring it out.

Mr. Stewart replied yes.

Mr. Lamanna asked if they have any plans for music or anything like that out there because that is probably a no-no, no either live music or putting speakers out there.

Mr. Stewart said he doesn't know if there are any existing restrictions on that.

Mr. Lamanna said yes there are some existing restrictions on using loud speakers.

Mr. Stewart said if there is any type, if there would be anybody out there, well he doesn't know.

Mr. Lamanna said we have had some issues with some other establishments in the community that have outdoor patios and have done things that created some issues. He asked if they do any kind of live music or anything like that.

Mr. Stewart said we don't do it at this time.

Mr. Lamanna asked if they have any plans for doing anything like that.

Mr. Stewart said you never know, we do some things inside. He said he doesn't plan on having concerts.

Mr. Lamanna said one thing you have to worry about is when people start having live music that is when we start to want to make sure we are not causing any problems for the neighbors that is why we really do not allow that sort of thing in outside areas.

Mr. Stewart said okay.

Mr. Lamanna said especially when where you are close to a residential area. He said if you are up in the middle of the CB somewhere that would be one thing but if somebody was in the middle of a shopping center we wouldn't be too worried about it if they had some outdoor noise going on because it is 2,000 feet to the nearest residential property line.

Mr. Stewart said in distance we are still quite a distance from the residents, it is a good 600 feet.

Mr. Lamanna said it is not quite as big a problem as some of the places down by the village are.

Mr. Barr asked how tall of a fence are they planning on and is it going to be a wood solid fence, what kind of fence are you planning on building.

Mr. Stewart said the fence that would be facing Wren Road would most likely be an 8' tall privacy wood fence, staggered privacy fence and then along the north border that would be a 6' tall and he talked with Auburn Fence as far as doing something like some type of wrought iron fence, it will be nice.

Mr. Barr said his concern is the fence towards the condos located north of you, correct.

Mr. Stewart said that is correct.

Mr. Barr said that would be a wrought iron fence.

Mr. Stewart said yes most likely. He said they want to keep the views to the north because they are really tucked in a nice greenspace on that end of the building and it is nice to be able to sit out there and really enjoy the views instead of feeling claustrophobic.

Mr. Barr asked what they are planning on doing to give a sound barrier between your patio and the condos.

Mr. Stewart said the sound barrier is there right now, it is all natural, it is all overgrown, its trees, he wasn't planning on putting up any kind of sound barrier.

Mr. Barr asked if the trees are evergreens or are they hardwood.

Mr. Tom Vokas testified that they are a combination.

Mr. Stewart said yes, a combination.

Mr. Lamanna said he doesn't think many people are going to be out there during the winter.

Mr. Barr said in the spring when the leaves are gone, there are no leaves on those trees to break the sound, where evergreen trees usually help with that.

Mr. Lamanna said his only question would be outdoor patio use generally tends to go with the time of the year when the leaves are on the trees.

Mr. Stewart said pretty much.

Mr. Lamanna said when the leaves are gone but before they come there is usually not a lot of outdoor patio demand.

Ms. Christine Katic testified that she is the President of the Homeowners' Association for the Trees Condominiums and the problem they have with what is going on is no matter whether there is a patio there or not there is no adequate parking and it ends up being that both sides of Wren Road cars are parked clear down to the turn-around that the township takes care of and at times there is hardly 2' on it for emergency vehicles, for ambulances or even cars have great difficulty getting down Wren to where we live and there has been music on Friday nights, there was a rapper and she was out on her deck and she could hear the words that they were singing or chanting or whatever it was.

Ms. Judy Garver testified that there was a microphone so it was pretty loud.

Ms. Katic said and tonight when we were leaving, her neighbor and her had to wind their way through the parked cars on either side and somebody was coming north on Wren and almost hit us so it is not what they are doing there it is the parking situation because all of the entrance and egress to the brewery is on Wren Road.

Mr. Stewart said that will be alleviated when we have a patio.

Ms. Garver said right now, she would think, if you put a patio in they will actually have more people coming and she has to say she is really happy they are doing well, she is thrilled that a small business is doing well but they are really concerned about the parking situation and she can see it getting so bad that they end up coming into our small development and parking there. She said she is curious to know how many people would fit out on this new patio.

Mr. Stewart said there is a limited size for the area on how many people can be out there.

Ms. Katic said you can't say you are social distancing because everybody was congregating.

Ms. Garver said they go by and see no masks and people sitting close to each other like you do in a bar.

Ms. Katic said and they use our turn-around to get back up onto Washington Street.

Ms. Garver said they just feel like they have privacy and they have none anymore on those three days. She said they are serving food and that is drawing in a lot of people and then we end up having these cars on both sides of the road so that only one car can go down the street at a time.

Mr. Lamanna said that is a serious problem, it is a problem for us because one of the main things we have to consider is the impact of what you want to do under the township's provision of services and one of those provision of services is fire and EMT service and if we have a situation where they can't get a fire truck up the street, that is a problem. He said one way it could be handled is discussions with the police and make it "no parking" along there on either one side or both sides but the question is where are we on parking, is there enough here.

Ms. Karen Endres, Zoning Inspector testified that that was addressed in her staff letter.

Ms. Katic said she has photographs if you would like to see.

Mr. Lamanna said yes, bring them forward and give them to the secretary and we will put them in the record.

Ms. Katic submitted a photo and said it was taken last Friday evening about 8:30 and this is another view, you can see another vehicle is blocking the road and that happens quite frequently.

Ms. Garver said they have seen more cars than that on the road.

Mr. Stewart said you also have to understand that a good part of our parking area is being used right now for social distancing, they have tables out there, they only have two tables inside the brewery so they put tables outside so they can do that so it has taken up parking space there.

Ms. Katic said when there are food trucks which they had in the past this summer where are they going to park, they can't be up on the patio, they will be in the parking lot.

Mr. Stewart said they will be in the parking lot.

Ms. Endres said she has a couple of comments, food trucks really are not permitted, when people ask if they can have food trucks her answer is always no so she has never given them a permit to allow food trucks. She said another thing that would need to be addressed would be the fencing, there is a provision that the height along Wren Road, the fencing can be 4' high in the front required drive but it can't be 8' high, it has to be beyond that 70' setback and that would need a variance to be 8' tall.

Mr. Stewart said he could make it 4'.

Mr. Lamanna asked if that turn-around is public right-of-way, the little circle up there.

Ms. Katic said it is public and they park along there.

Mr. Lamanna referred to the aerial and said this is all of the street here and once you get to this point, it is private drive.

Ms. Katic said that is right, and it is the first time in years that we had to post that it is private property. She said it is a little bit concerning, at 10:30 one night we had men walking through our turn-around and we didn't know where they were coming from or where they were going but obviously they didn't belong where they were.

Mr. Stewart said he doesn't know if any of their people are parking back there, he is not saying it hasn't happened, he hasn't heard of it.

Mr. Lamanna said there are pictures of cars all the way back there.

Ms. Garver said they park all the way around that circle.

Mr. Stewart said on a public road.

Ms. Katic said C4 had problems with them wanting to park in their parking lot and they put cones across their entrance and they play soccer there.

Mr. Stewart said that is understandable, that is private property and he wouldn't want anybody parking on private property anyway.

Ms. Garver said she is worried about that, she worries that there is going to come a time where there is going to be actually parking in our area because if you put no parking signs on one side of the road that is going to take up all that space so the cars are going to have to go somewhere and she is afraid and she is the first unit so she is worried they are going to be parking at her garage for all she knows, it hasn't happened yet but it is a concern.

Mr. Lamanna said if it is on private property you can have it towed away.

Mr. Friedman said he has one question for Mr. Stewart. He said given a business night, what would you say the number of patrons at the establishment there is and it could vary on a weekday or weekend.

Mr. Stewart said it does because the way we operate, we operate two ways. He said there are days when on Thursdays their business model is they “can” beer so they are a craft brewery and they can beer and when they open on Thursdays they have what is known as “can releases” so when they open at 3:00 yes there can be a significant amount of people there to get the beer and in most cases the majority of them pick up the beer and leave. He said they are not in retail stores, they sell direct right from their location which they are allowed to do.

Ms. Garver said but the food trucks on Thursday.

Mr. Stewart said yes.

Ms. Garver said the food trucks draw in numerous people and you have to admit that.

Mr. Stewart said yes.

Ms. Garver said they come for the food.

Mr. Lewis asked Mr. Friedman if he got through all of his answers, he thinks somebody interrupted Mr. Stewart.

Mr. Friedman said thank you. He said to continue the question he understands that when people are picking up the product and likely leaving, he is more concerned and his question relates more to the times when they are congregating and for the reasons you are speaking to expand this, where the parking is but you talk about a weekend when people are not leaving with their beer but they are staying to consume it and congregate socially.

Mr. Stewart said right and people are spread out there, they are not all together so he would say at any time there could be a maximum of maybe 50 people there but it is usually not even that many that are there.

Mr. Friedman said and you are saying you have only two tables inside in order to be consistent with social distancing.

Mr. Stewart said he actually has two long tables that are inside and four high-tops that only have five chairs at them total, they try to keep people separated and apart so inside he can have four, eight, eleven or twelve people inside.

Mr. Friedman said he can't see who else was speaking off the screen but he has a question as to the music and asked if there has been live music recently as described, he doesn't care about the type necessarily but have you had live music there.

Mr. Stewart said they did have a DJ there last week.

Mr. Lamanna asked if he was inside.

Mr. Stewart said outside.

Mr. Friedman asked if the music were inside would that still allow for social distancing but for right now if you would have that inside would that eliminate some of the capacity for patrons therefore forcing them to go outside.

Mr. Stewart said not necessarily and he can put that in another spot inside his building.

Mr. Friedman thanked Mr. Stewart for his answers.

Mr. Lamanna said he can tell you what the problems we run into with inside music is, people then want to prop the door open so the music goes outside, we have been to this rodeo before so we kind of know what tends to happen. He said he is still trying to wrap his hands around this parking space issue. He asked how many spaces are there now for the building.

Ms. Endres said she thinks she figured there were 38.

Mr. Lamanna asked if that is available.

Ms. Endres said based on her calculations there are 38 spaces on the property but Mr. Vokas probably has a better handle on that and she calculated it based on spaces being 9' x 20' size.

Mr. Corcoran asked the parking lot on the south end, is that being used by patrons when they are parking on the street and if not can they be directed to use that parking area and also if there is a possibility of expanding the parking area to the north of that gravel area.

Mr. Stewart said people can park at the front of the building by Washington Street but as you know people don't like to walk but they can, but the employees try to park up front.

Mr. Lamanna asked Ms. Endres when she calculates the required parking spots are you including the outside area as additional parking.

Ms. Endres said she calculated how many spaces there were, she was calculating it based on the size of the building applying the one space per 250 and one space for 200 and the other factor to consider is that it is a blended use building, the whole building is not used for retail, it is all not used for office space, she believes some of it would be used for storage/warehousing type use so each of those different uses has a different number of parking space requirements. She said one thing that may help is striping.

Mr. Lamanna said you have to add in the outdoor patio area as part of it.

Ms. Endres said she doesn't have the number of seats for that calculation.

Mr. Lamanna said he is not sure that the whole restaurant standard is really designed for this use, it is a more intensive parking use and even on your retail side of it because if you have a situation where the two differ, if he has 100 customers and they come in over a four hour period it is not much of an issue, if he has 100 customers and they come in over a 15 minute period that is a problem, that is a whole different business model and then it is contemplated by you have a general regulation and one of the advantages of when you have some of these things being conditional uses is that you can address those circumstances and say what you are doing here is you don't need 30 parking spaces you need 75 parking spaces just because of the nature of what you are doing so that is a little bit of a problem here and if we are regularly getting parking onto the street of that magnitude then it seems to him that there is not enough parking or it is not being utilized properly.

Mr. Vokas said he would agree, it is not being utilized, you could have parking like you have over at Marketplace at Four Corners, there are tons of parking over there and it is never used but in this case Mr. Stewart made a very valid point, people park along the street and there is plenty of parking so maybe we need to redirect it with additional parking up front.

Mr. Lamanna asked if the township can make areas no parking.

Mr. Markley responded by saying in the public right-of-way.

Mr. Lamanna said in the public right of way you could post it all as fire lane or something, no parking here starting a little ways past their building all the way down and around.

Mr. Markley said Police Chief Bokovitz would be involved in that process.

Mr. Lamanna said that is one answer to the problem, maybe saying this is basically an access to a residential area and it is not going to be a commercial parking lot and we are just going to post the whole thing all the way down the street and if people are parking there the police can just drive down the road and they have 30 citations, make the fire lanes \$100 a piece or something. He said it will discourage people from doing that and that is probably the only answer because we can figure out what is a reasonable parking thing but you might have enough parking available but if people aren't encouraged to use it or have other alternatives they will go to the other alternative.

Ms. Garver said the water department has also put up cones along the side of the road she would say a good 100' so there is another 100' where they are not allowing people to park because we have water trucks that come in there all of the time to take water from the hydrants so there is a whole other area that can't be used for parking.

Mr. Lamanna asked if that is along the road there.

Ms. Garver said absolutely.

Ms. Katic said it is closer to the first turn-around.

Mr. Stewart said yes there is a city hydrant there and they have been getting water there for years.

Mr. Vokas said and it makes a mess.

Ms. Endres said she thinks it may help as parking spaces for the site.

Mr. Lamanna asked who is getting the water, the fire department.

Ms. Katic said for swimming pools but it is being bottled and sold as spring water.

Mr. Lamanna said so bottled water from the county or whatever. He said the county buys it from the city.

Mr. Stewart said that water goes to fill swimming pools.

Mr. Vokas said they do take up some space along the road there but as far as the parking problem he remembers when Timberfire was there and they had certain nights where they had specials and a lot of their patrons would park in front on the south end of his building and they would take up his parking and they would walk across the grass.

Mr. Lamanna said that unfortunately is a problem.

Ms. Katic said we have no problem with the brewery being there.

Mr. Lamanna said one answer is that if you are getting a problem along Wren Road that he thinks you have to have a discussion with the Police Chief and the Trustees starting at that driveway into the other building there, the rest of the way is to be all be posted “No Parking” or “Fire Lane” or something like that.

Ms. Katic said due to the demographics of people living in their development we do have to have ambulances quite frequently.

Mr. Lamanna said he is sure they come there more often than they do a lot of other places.

Ms. Katic said but we are not all little old ladies with white hair but there is a just a concern about their privacy and safety and as a homeowners’ association she fields questions about this constantly and complaints from the residents.

Mr. Lamanna said obviously you can put signs up and at some point you could put a sign up that says there is no street parking beyond his point and then you will have the regular signs so people when they get up there they will see right away there is no point in going down here because there is no parking beyond this point and then hopefully people will turn around in the business there and go back. He said definitely we need to figure out how much parking there is and how much parking is required because we have indications here that there is a problem, we are spilling out onto the streets and creating traffic problems on the street.

Mr. Stewart said on Wren Road.

Mr. Lamanna replied yes, Wren Road and he was thinking people are not trying to park on E. Washington Street.

Mr. Stewart said let’s hope not.

Mr. Lamanna said so you have parking in the front.

Mr. Vokas said along the side and along the entire length of the building.

Mr. Lamanna said along the entire length of the building, okay.

Ms. Garver said the parking is only one deep, you can park side by side but only one car deep.

Mr. Lamanna said so basically you pull right in from Wren Road all the way along here, one car.

Ms. Endres said there is not enough room for parking idle there.

Mr. Lamanna said the road right-of-way is probably where that line is right there, it is not farther. He asked where the property ends, how far does it go.

Mr. Vokas said quite a bit further north, almost to the culdesac. He said it is a little over 2.2 acres he thinks to the end of the building it is about an acre so there is about another acre back there and for over 40 some years or 50 years those trees have not been cut so he knows you were a little worried about a buffer between the patio to the condominiums back there which were built after our building was built and he remembers them coming to our family and asking if they could build that and we said certainly we don't have any objection and we have co-existed here nicely, we have kept it undeveloped back there. He said the property is grandfathered M-1 which he has documentation but at this point they don't have any other plans so they are planning on keeping the greenspace back there with trees and we are happy that the building is being utilized. He said it is mostly a production facility for the brewery, his model is a little different but for the most part he is just a production facility. He said in the past they had the auto mechanics in there and there were cars, it is definitely an improvement, they are cleaning up they don't have all of those tow trucks pulling in and out and some of the people maybe in the Trees are unaware of the prior uses of that back space but Mr. Stewart has worked very well with him and they are trying to maintain and create an asset to the community that will be beneficial and it is kind of a little bit off the beaten path, he realizes that Wren Road goes to those condos back there and some people park along side the road there because it is probably a little more convenient to walk there but on the other hand it has kind of slowed some of those cars down because that road is 25 mph and sometimes people will come flying up and down that road so he sees a little benefit to that too. He said there is a traffic issue right up here at Dunkin Donuts, you turn that corner and you got State Route 306 with tractor trailers coming through there and the cars are waiting to pull into this parking lot to get a cup of coffee so he understands their concerns back there and so does Mr. Stewart but for just adding a little additional patio and maybe redirecting some of our parking he thinks it is doable and he thinks there is a good buffer between the current building and he has been known to cut some trees down and he doesn't want to cut anymore. He said they would really like to ask for the consideration to make this expansion, it is not that big of an issue.

Mr. Lewis stated that it seems to him that some of the parking is just a result of COVID and spacing so people are sitting out in the parking lot so they can still enjoy coming to the business and that is eating up parking spots. He said the upside of it, you put the patio on the north side of the building and you are not having live outdoor music so other than voices people are just relaxing and having a good time but the upside is if you recover parking spots in front of your building that people are using to sit now because there is no place to put them, so he would almost like to say doing the patio gives you parking back, that reduces parking on the street and maybe let's do a test run with it for a year and see how it works out also understanding that we are going to be going into the colder months up here in another couple few months so there won't be a lot of outdoor activity anyway and the building does have capacity so his thought is go with the patio, recover on-premises parking by giving people a place to go sit, just some thoughts.

Mr. Corcoran said he agrees.

Mr. Barr said he likes the idea of the one year and he also thinks that there needs to be maybe some pop up signage that you put up front that just lets the patrons know to park out front and not use the road, that would be for over-flow parking and point them in that direction and not use the road.

Mr. Corcoran said that is an excellent point, he thinks if people knew they could park up front they would do that rather than park on the road.

Mr. Lamanna asked if this other area here is used for parking, what is that, is that gravel.

Mr. Vokas said it is asphalt.

Mr. Lamanna said so that is actually a parking area of sorts or could be a parking area.

Mr. Vokas said people park on it, they have.

Mr. Lamanna asked if it is lined, it doesn't look like there are any stripes.

Mr. Vokas said no.

Ms. Katic said she doesn't think the people in her association would have a problem as long as the township and the police department could work to make it so the parking is not along either side of Wren Road and making it a hazard to get through. She said it is not the brewery so much, it is the cars that is distracting.

Mr. Lewis asked if the HOA, down the street on Wren Road have filed any complaints with the Bainbridge Township Police Department. He said Wren Road is a public road, there are no signs up except a couple of places that do not allow parking, he is not aware of any complaints on file or violations on file on that public road which isn't usable for parking on file with the Bainbridge Police Department but maybe from everybody's suggestion maybe a meeting of the minds between the HOA and Mr. Vokas and Mr. Stewart and the Bainbridge PD and resolve this and be good neighbors.

Mr. Lamanna said he has some pictures of these cars parked all the way up and down the road.

Ms. Katic said she filed a complaint last night at 8:30.

Ms. Endres showed the photo of the cars parked on Wren Road to the Zoom participants.

Ms. Katic said that picture was taken approximately at 8:30 P.M. last Friday.

Mr. Lewis said it is a public road and if there are no parking restrictions on it they are entitled to park there.

Mr. Barr said if they were to line the parking lot, get some lines out there and if you have the parking lot lines your patrons wouldn't park wherever they want you should direct them and try to get more spaces and more parking spots.

Mr. Lamanna asked what about the food truck deal, where is that taking place and where are they locating and technically it is not a permitted use.

Mr. Stewart said okay.

Mr. Lamanna said it sounds like it is helping to create part of the problem. He said number one there goes the parking spaces that the food truck takes up.

Mr. Stewart said not much.

Mr. Lamanna said the problem is to him it appears there is not enough parking here and certainly it is exacerbated by the fact that it is not striped and marked in a way that even makes the most efficient use of the parking that you do have so the idea is we don't want to keep making the problem worse so there may have to be some trade-offs of some things here to try to figure out how we are going to assure that we aren't creating a major problem on the streets right around this thing, there are solutions but we can't just wave our hands and go forward without having a plan in hand that says this is what we are going to do here. He said we need to get a measurement and figure out exactly how many parking spaces ought to be available and how many are actually available. He said we are flying blind right now, we are in here and we don't know how many parking spaces really are there because they are not striped and they are not marked, we have a problem and we don't really know how to figure out how many parking spots we do need because we've got to look at the various aspects of the uses here so we are sitting here trying to make a decision on something that is lacking all of the information that we should have to make the decision but he recognizes that kicking this thing off for awhile is not exactly very helpful because the snow will be flying before you know it. He said his inclination is to not even talk about going a year if we are going to look at this thing he thinks we see what happens for the rest of the season and then there is plenty of time to revisit it before next spring.

Mr. Stewart said there is a process for putting a patio in that is beyond Bainbridge Township as far as an A1C license which is a federal license, the first step is to get township approval, then he has to get state approval and then he gets federal approval so we are at step one so if you give him six months he will be lucky if he has an answer from the state in six months with all of the COVID.

Mr. Lamanna said so you are not even sure when you are going to be able to go ahead with this thing.

Mr. Stewart said the sooner he has step one done the sooner he can go to step two, as soon as step two is done he can go to step three.

Mr. Lamanna asked Mr. Stewart when he realistically is going to be able to go ahead to do this.

Mr. Stewart said he would be lucky to have a patio this year with all of the permitting. He said they are doing temporary permits, with COVID he could probably get his state and federal temporary permits quicker because with the social distancing requirement but for a permit he probably would be able to do it and actually have it open next year with a permit because of the delays.

Mr. Lamanna said it is a catch-22, they need to have some quick adjustments but they are not working so they will not have the capability of making any kind of adjustments.

Mr. Stewart said the state, just like everybody else, they are working from home, the federal is the same way.

Mr. Lamanna said the perfect bureaucratic setup so that nothing happens.

Mr. Stewart said if you give six months and see what happens, if he gets approved it would be February.

Mr. Lamanna said part of it is he is looking at a way to move this thing forward because of these issues, move it forward so you can get past stage one and move on to the rest of this thing but we will come back and revisit these issues and he thinks the biggest one is revisiting the parking issue.

Mr. Corcoran said he thinks stripes and signage would go a long way to resolve that.

Mr. Lamanna yes he thinks that would help a lot, if nothing else we can at least get an accurate idea of what we are dealing with.

Mr. Barr said he agrees, striping, signage, give them a year, we revisit this and that gives them time to get the patio in and we would know what problems we might be dealing with and again as Mr. Friedman said the laws and the COVID are making everything fluid so they would have more space then because you could get more people inside. He said if we give a year it gives them a chance to move forward with the project and their business.

Mr. Lamanna said he doesn't have a problem with doing a year but he thinks we need to approve this with the requirement that they do these parking things and when they are done and they determine how many spaces they have, in the meantime, the zoning inspector can be trying to get a better handle on how many spaces they should have and then we revisit that in a month or two so you got the go ahead to go ahead subject to resolving the numbers on these parking spaces and figuring out what we are going to do on that because right now we don't have enough information to really get our arms around this thing but then we can keep the process going, we can work on resolving and finalizing that issue which we are not going to do here tonight, there are too many moving parts.

Mr. Vokas said he understands the concern of the residents back in The Trees and asked is that kind of driving the situation ahead.

Mr. Lamanna said no, that is only part of it. He said the issue anywhere is adequate parking, it is not focused on because what we have here is we have an indication that there isn't adequate parking because they are parking all the way down the street.

Mr. Vokas said that is why he is asking and bear with him, had everyone parked in the parking lot.

Mr. Lamanna said then maybe there won't be a problem and that is what we are hoping we can solve by looking into this.

Mr. Vokas said he thinks from what he can get a count on the cars as he is looking if these cars were basically on the pavement wrapped around the building which there is a lot of pavement.

Mr. Lamanna said that may solve the problem.

Mr. Vokas said the Trees would never have been concerned about the traffic parked on Wren Road so he guesses he is making a point, they do seem to be spread out a little bit, the road was clear and it slows the people down a little bit too. He said he is happy that the building is being utilized so he does take some pride in that facility out there and he works hard.

Mr. Lamanna said we will talk about getting the parking spaces laid out, lined and striped so that you can come and give the zoning inspector how many you have, she will do her calculations and see how many we think we need and if the two of them jive then we are okay, if a month from now the two of them don't match, if it comes out that you have half the spaces you need or have two-thirds then you are going to have to come back here.

Mr. Vokas said then we may need to make more parking.

Mr. Lamanna said you may need to make more parking, what he is saying is he wants the opportunity to revisit this parking thing, he thinks we need to take the steps of number one, have somebody come in and mark up or plan out how you are going to stripe this thing.

Mr. Vokas said we may have something like that on file, he will have to look.

Mr. Lamanna said the first thing is, put together a plan, give Ms. Endres the plan and let her look at it and say okay, this meets requirements, he doesn't want you to go there and stripe it and then come back here and say you didn't do it in accordance with the zoning requirements so make a plan, measure it out to determine how much room you have, it is this big, put them in this wide, recognize the driveways and figure out how to get more parking spots by a different layout, get the layout together and give it to her and she can look at the layout and say yes this works and then we will know how many spots you've got and get them lined in there, she will do her calculations, there are a lot of issues here so the board will give her some guidance on how we interpret this should be done and then we will review it in a month or two on the parking.

Mr. Lamanna continued by saying the other aspect of it and on the parking he would suggest that it would be their recommendation for the township to pick a point such as the next driveway of that commercial building and make the rest of the street “no parking”, put a sign there that says “no street parking beyond this point” and that will hopefully stop lots of cars from driving down there, they will turn around at the industrial building or they will get the idea after their first visit, they won’t go down that far.

Mr. Stewart said the turn-around at the culdesac is a public road.

Mr. Lamanna said right but hopefully we will stop a lot of extra cars from just going down there looking for something that is not there.

Mr. Vokas said from his observation, and he has worked with him too, his comment was accurate that people stop and go, they will come in for five minutes and they will pick up and go.

Mr. Lamanna said hopefully they will be quick enough and they all won’t come at the same time or you could encourage people to spread it out a little bit. He asked if the board members had any other comments or if there is anybody else on the Zoom that would like to speak.

Ms. Katic asked was the idea of the food being served on the premises with food trucks addressed.

Mr. Lamanna said as far as he knows food trucks are not permitted.

Ms. Endres said right and Mr. Stewart and Mr. Vokas are aware now that food trucks are not permitted on the property anymore.

Mr. Vokas said he was unaware of that.

Mr. Lamanna said at least until someone in the township decides to address it.

Ms. Katic said when she goes back to her homeowners should she tell them that the only recourse we have is to call the police if the road is blocked.

Mr. Lamanna said the other recourse is to go to them and talk to the township trustees, talk to the police chief and see if they will post it “no parking”.

Ms. Katic said okay, that would be our next step then.

Mr. Lamanna said yes, we can't do that, the board of zoning appeals doesn't have the authority but he supposes we could say that we aren't going to grant the conditional use or variance unless that is done.

Ms. Endres said they did not apply for a conditional use it is going to be an expansion of a non-conforming use. She said if Mr. Vokas wants to he could go ahead and apply for a conditional use zoning certificate kind of like what was done over at the old Drug Mart plaza with Cliff Hershman.

Mr. Lamanna said the problem you have with expanding a non-conforming use is you are right up against the issue of it being more intensive and causing more traffic, if he looked at all at what the requirements are for expanding a non-conforming use this is a really, really hard sell.

Ms. Endres said right.

Mr. Lamanna said this is the law, this is not his personal opinion or him trying to give you a hard time, that is the standard.

Mr. Vokas said they conversed on that and he doesn't know if it is a more easier way but.

Mr. Lamanna said no, it really isn't an easier way, his view it is a harder way.

Ms. Endres said right.

Mr. Lamanna said he thinks the burden of proof on you is much more difficult and it leaves him with a question of what we can do under that section. He said under the conditional use section is that we can put all kinds of conditions on it.

Ms. Endres said exactly. She said this is a shopping strip center that predated the zoning for conditional uses for shopping centers and she thinks when she and Mr. Vokas talked she said it could go two different ways.

Mr. Lamanna referred to the zoning code and said we can impose appropriate conditions and limitations relating to the use.

Mr. Vokas said it is going to be an impervious surface he doesn't know if that makes a difference or not, it is gravel, it is not concrete or anything.

Mr. Lamanna said you are extending the use into that area that was not there before and frankly on the basis of an expansion he would strongly oppose granting this as a variance for an expansion of a non-conforming use because there is no way we can control it if we did that because once you have granted a variance you've granted a variance forever, it is not like a conditional use where you can put conditions on it, that is why he would address this probably considering it as a substitution of a non-conforming use because then we can put limitations and conditions on it which otherwise we get into a really fuzzy area for treating it as a variance.

Mr. Stewart said so you look at that expansion the same way as an addition, is that correct.

Mr. Lamanna said a non-conforming use is going on and you are expanding that non-conforming use into a new area so like he said, you would probably be better off as a conditional use from the standpoint of meeting the legal requirements to have us act favorably.

Ms. Endres said she agrees.

Mr. Lamanna said this would be easier as a conditional use than it is as an expansion of a non-conforming use because in theory there should not be expansions of non-conforming uses, period, full stop, end of discussion, that is the idea. He said yes you have a non-conforming use but it doesn't get any bigger and that is really the way it should be, there really should be very little flexibility, almost none in doing that, you've really got to present an awfully strong case to justify it under that standard and that is why it is not really a great place to go, it is not really the ideal situation. He said in some cases it is okay, you are forced into it if you are just substituting, if it is a straight substitution that is a little easier but even there if you look at the standard, it is a pretty tight standard that you won't be increasing the traffic and the noise and the pollution and all of these other things so that can be a little bit difficult too so it would be much better for us to be considering this thing under a conditional use situation than it is under a substitution of a non-conforming use. He said unfortunately now we have gone down that road and he is not sure at this moment that we can go back easily and quickly enough only because it is not so much a problem with changing because of the notice or anything like that, that is not really the issue, the issue is he is not sure what all of the implications would be trying to convert this because the impact is not just on this particular point. If you go down the road and say okay you are going to now become a shopping strip center, that has some implications too, he would say you can just flip the switch on because that affects everything going on there not just his piece of it, potentially it affects things. He said at the moment the board will consider this under Chapter 165.09, substitution of a non-conforming use and he still thinks it may be good to go back to reconfiguring this thing in the future, when you get to the point where it looks like you are really going to go ahead and do it that maybe you want to perhaps rethink this and come back, that it might be less restrictive to come back as a conditional use, but that is something that you can think about but at the moment we will deal with this as a substitution.

Mr. Lamanna continued by saying what he is thinking of is we will create this as a substitution of a non-conforming use, it will be subject to conditions and limitations, the first condition and limitation will be doing this parking thing that he discussed before, secondly that we are going to revisit this in a year, at our regularly scheduled meeting in August 2021 and we are going to look at what is going on and in accordance with the standards in this section with regard to noise, pollution, traffic, etc., what is in that section of the code that he just cited so we will review it further at that time to determine whether one, you have actually met the requirements and at that point in time it could be subject to termination if you are not meeting the requirements and you can't come up with a plan to get to where you meet the requirements and that stature of not increasing those things.

Mr. Stewart said the biggest concern is parking, correct.

Mr. Lamanna said right now and we talked about getting the fencing in compliance, you are going to have to have the protection, bollards or some other way to stop people from going into that area and no outside music and that includes leaving the door open with somebody on the other side because we have seen that already in a couple of other places in the township where it has been a problem and we've had complaints. He said we can probably deal with it on that basis. He asked Ms. Endres if there is anything else he needs to address from her standpoint.

Ms. Endres said she doesn't think so and maybe she and Mr. Vokas can get together and try to figure out this parking thing and he has a number of different tenants so parking standards may be different for each tenant.

Mr. Lamanna said as part of that parking as a condition is that you and the neighbors together go to the township and seek them to post the back end of Wren Road as "no parking". He said it is up to the township and the police department to decide what they want to do on that because he is not going to make it an absolute condition, he thinks we could on the basis that if they are not willing to do that then we don't think you meet the standards but since we are going to review this anyway in a year if they don't do it and we are still having the same problem then we may say you didn't meet the 165.09 standard. He asked if anybody else has anything to add.

Since there was no further testimony, this application was concluded.

Motion BZA 2020-20 – 8284 E. Washington Street

Mr. Lamanna moved to reconsider this application on the revised basis that the applicant is requesting a substitution of a non-conforming use under Chapter 165.09 in order to take an area of the property and convert it to a patio as the applicant has shown on his submittal to the zoning department in his application. In considering this substitution of a non-conforming use there are several issues that need to be resolved and the following conditions and limitations will be imposed on this substitution.

1. The applicant will provide a plan for parking space striping and identification to the zoning inspector so the number of parking spaces that are available on the premises will be established. The zoning inspector will also review the uses of the building and determine the amount of spaces that are required. The applicant will ultimately carry out the appropriate striping and marking. In addition if there is a substantial discrepancy between the number of spaces provided and the number of spaces required the applicant will return to the board in two months to readdress the questions and any issues that are raised by the lack of an appropriate number of parking spaces.
2. With respect to parking the applicant will go with the adjacent condominium homeowners' association and jointly seek to have the portion of Wren Road beyond the next and final commercial driveway posted as No Parking with identification that there is no street parking beyond that point.
3. The applicant will not bring any food trucks to the property for use in connection with this business.
4. The applicant will not have any outdoor live or recorded or electronically reproduced music on the outside patio and will not have any inside music with the door to the outside being kept open on a continuous basis for the purposes of allowing that music to be heard on the patio.
5. This substitution is allowed for a period until August of 2021 when the applicant will appear at the regularly scheduled August meeting of the township board of zoning appeals in order to review the operation of this patio area and to establish that it is in fact meeting all of the requirements set forth in Chapter 165.09 with respect to a substitution in regards to the matters set forth in such section with regards to increasing impact for the use of the property at which time additional conditions or limitations may be imposed or if the requirements of the aforementioned section are not met may be terminated.

Mr. Lewis seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Friedman, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Secretary's note: See minutes dated September 17, 2020

Mr. Lamanna moved to adopt the minutes of the August 20, 2020 meeting with the following modification to the motion for application BZA 2020-20 – 8284 E. Washington Street (Crooked Pecker Brewery) with respect to food trucks.

The applicant will comply with the then applicable zoning ordinance requirements with respect to food trucks.

Mr. Lewis seconded the motion.

Vote: Mr. Corcoran, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Mr. Gutoskey returned to the meeting.

Application 2020-21 by John Deering for property at 8605 Apple Hill Road

The applicant is requesting area variance(s) for the purpose constructing a shed. The property is located in a R-3A District.

Mr. John Deering, applicant was present via Zoom.

Mr. Lamanna swore in Mr. John Deering and he let the record reflect that Mr. Deering was duly sworn.

Mr. Deering testified that he asking for a 2.10% increase in lot coverage for his variance and that would take him from 10% to 12.10% coverage on a 1.07 acre lot and he is also asking for a variance of 50', that would be 40' off his backline which is due to the riparian distance of 25' off that watershed line. He said the location of the shed has been signed by both neighbors which is a requirement of the HOA signing prior to submission for a shed. He said the position of the shed is chosen due to the water flow in is yard that is east to west, it is the high point within the yard in that position as well as moving it up from 50' it also puts it in towards the root structure of a Maple tree and starts to encroach upon looking across property lines, the physical appearance and things like that looking down property lines, this leaves it towards the back of the property as well as it starts moving towards his cross-section powerlines that come across his yard. He said he is asking for the variance to the 2.10% increase in lot coverage as well as it being just 40' off the back property line. He said the back property line is kind of a slight ravine by the woods, it will not be viewable by the neighbor behind him on Beacon Hill as well as the shed will also be behind the profile of his home.

Mr. Lamanna asked if there are any questions from the board.

Mr. Gutoskey said this is an easy one, he is good.

Mr. Barr asked Ms. Endres if the ReaLink is off a little bit because when you pull it up it puts his driveway not on his property.

Ms. Karen Endres, Zoning Inspector testified that we cannot depend on ReaLink to be accurate.

Mr. Gutoskey said in Pilgrim Village it is bad because it goes through his garage, his property line.

Mr. Deering said he used his recently surveyed property line and that was off of the east side.

Mr. Barr told Mr. Deering that he would like to give him praise for being very organized and presenting this.

Mr. Lamanna asked if anybody had any issues or questions.

Mr. Deering stated that this will just be for the use of garden tools.

Since there was no further testimony, this application was concluded.

Motion BZA 2020-21 – 8605 Apple Hill Road

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing a 12' x 14' shed as set forth in the application.

1. A variance from the maximum lot coverage of 10% to 12.10%.
2. A variance from the minimum rear yard setback of 90' to 50'.

Based on the following findings of fact:

1. A practical difficulty exists because it is a pre-existing lot of record.
2. The lot is only a 1.03 acre lot.
3. The small amount of lot coverage increase is reasonable given the fact that the current lot coverage and structures are all very reasonably sized.
4. This additional shed is quite reasonable in terms of the character of the neighborhood.
5. The shed is being located behind the house and because of issues with the rear yard, water flow and power lines it needs to be located a little closer to the rear property line than 90'.
6. This is a reasonable location that will not be visible to the street or to the neighbors behind because of the existing coverage and topography of the land.

Mr. Gutoskey seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2020-23 by Oleh Shapowal for property at 8137 Pettibone Road

The applicant is requesting area variance(s) for the purpose of constructing a shed. The property is located in a R-3A District.

Mr. Oleh Shapowal was present via Zoom.

Mr. Lamanna swore in Mr. Oleh Shapowal and he let the record reflect that Mr. Shapowal was duly sworn.

Mr. Shapowal testified that he got a tractor with a front-end loader, log splitter, wood chipper, miscellaneous outdoor tools etc. and he would like to get them out of the garage and into a shed.

Mr. Lamanna said okay.

Mr. Shapowal said basically that is his whole intent right there. He said the shed is 16' x 24' and he guesses the township limitation is 300 sq. ft. and this would be 384 sq. ft. and the basic dilemma is that there is no savings to be had to try to get down to 300 sq. ft. instead of 384 sq. ft. and the tractor has a front-end loader so he kind of needs the length and by the time you throw in the wood chipper and the log splitter and all of that other stuff and that really makes the most sense.

Mr. Lamanna said there is really not too much of an issue with the size. He said there are two sites here on the plan.

Mr. Shapowal said he actually deleted the one on a different sketch, he would have preferred site A because it is closer to the drive and in the winter when it is snowing it would be much better for him to take the tractor out so he could plow the drive with a shorter distance but because that only had about a 25' clearance to the sideline, but to alleviate another item that might be a bone of contention he crossed that one out and said let's go with site B.

Mr. Lamanna said site B looks great, that is fine.

Mr. Shapowal said plus site B is slightly more level, that was the other consideration.

Mr. Lamanna said there is no issue with site B.

Mr. Shapowal said there shouldn't be.

Ms. Karen Endres, Zoning Inspector testified by saying that is correct.

Since there was no further testimony, this application was concluded.

Motion BZA 2020-23 – 8137 Pettibone Road

Mr. Lamanna moved to grant the applicant the following variance:

1. A variance to the maximum accessory building size for a non-conforming lot from 300 sq. ft. to 384 sq. ft.

Based on the following findings of fact:

1. This building is a very reasonable size.
2. The applicant has 1-1/2 acres.
3. The building is going to be located with the appropriate setbacks so there is no reason not to allow this modest increase in the maximum building size.

Mr. Barr seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2020-24 by Adam Feig for property at 8360 Timber Trail

The applicant is requesting area variance(s) for the purpose of constructing an accessory building. The property is located in a R-3A District.

Mr. Lamanna moved to continue this application to the next regularly scheduled meeting to be held September 17, 2020 at the request of the applicant.

Mr. Lewis seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2020-22 by Federated Church by Melissa Owen, Senior Director of People and Operations for property at 16349 Chillicothe Road

The applicant is requesting an expansion of an existing conditional use. The property is located in a R-5A District.

Mr. Friedman asked Ms. Endres if this is the one with counsel.

Ms. Endres replied yes.

Mr. Friedman asked if anyone minds if he makes a public disclosure. He said his understanding is that counsel Ms. Bridey Matheney is involved in this and so although he as an alternate and will not be voting on this matter it is important to note that she does represent the homeowners' association that he lives in on a matter that is pending before the board of zoning appeals and he needs to make that disclosure, he does not have any interest in this matter whatsoever but for purposes of disclosure he thought it was important that he does not have any conflict in this matter.

Mr. Lamanna said it is better to be on the record then nobody can complain.

Ms. Bridey Matheney was present in person as legal counsel to the Federated Church and Ms. Melissa Owen, Ms. Maren Koepf and Ms. Ann Lentz were present in person to represent the Federated Church.

Mr. Lamanna swore in Ms. Bridey Matheney, Ms. Melissa Owen, Ms. Maren Koepf and Ms. Ann Lentz and he let the record reflect that Ms. Matheney, Ms. Owe, Ms. Koepf and Ms. Lentz were duly sworn.

Ms. Melissa Owen testified by saying the following:

Hello. I am here tonight on behalf of the Federated Church to discuss the expansion of our Conditional Use permit. Our hope is to lease the property to the Community Life Collaborative so we can extend our outreach from our congregation to the wider community. The Community Life Collaborative or CLC is a group borne out of the Federated Church – members set out to find a way to utilize the Bainbridge property in order to avoid having to sell it. The building and grounds are expensive to maintain and over the last several years, we have not had the staff or funds to use the property as it was originally intended - to expand and execute the church's missions and become a community resource. We realized to do so properly would require a separate entity with a fully dedicated staff and the ability to procure new funding sources. And so was born the Community Life Collaborative (or the CLC). The plan is for the CLC to assume the property under a lease; all church and place of worship activities will continue as they always have on the property: Memorial Services, weddings, special church services and other religious and related social events. The CLC would focus on growing the Church's missions, particularly those of Environmental Sustainability and Social Equality (in Federated Terms, these missions are called Environmental and Social Justice) and our Tributaries program, which is a variety of health and wellness classes. Our voter education activities will expand into the CLC, as will new offerings for the community that we have previously not been able to offer, such as Community Gardens; the CLC will expand the offerings such a Speakers on environment, expanded health and wellness programs; Yoga; Films, presentations, panel discussions, Symposiums on sustainable farming, gardening and watershed preservation; fundraisers to support non-profits with like missions of the Federated Church; as well as education for all ages and abilities.

Ms. Owen continued by saying The CLC will be a community resource – a place where people can come to reflect and to learn about the Federated Church’s missions and find their own way to participate, learn, and grow. The Federated name will remain on all signage and marketing materials, as ‘Community Life Collaborative in collaboration with the Federated Church’. The lease will ensure activities fall within the scope of our Conditional Use Permit. Any sub-lesers must be approved in writing by Federated Church. The activities taking place on the property will not increase noise or cause a nuisance. There will not be any impact or increase in traffic and no impact or change to the water table. We feel strongly this change will be a good one and have worked hard to anticipate and address any potential issues or concerns by reaching out to surrounding neighbors for feedback and input. Federated church Pastor Hamilton Throckmorton, Church Council, church members as well as members of the Bainbridge community are all here tonight in support. We thank you for your time and consideration and ask that you grant us an Expansion of our Conditional Use Permit. Please let me know if I can answer any questions. With me tonight are Ann Lentz and Maren Koepf, two of the CLC Founders and current leaders of Federated Church. She asked if there are questions.

Mr. Corcoran asked if they are adding subleasing to somebody from the Federated Church.

Ms. Owen said the Federated Church owns the property but we would be leasing the property to another entity called Community Life Collaborative.

Mr. Corcoran said his first question would be is there a sub-lease that has been drafted that would dictate that it conforms to the zoning variances that have been placed on this property.

Ms. Owen said yes, it is accounted for in the lease.

Mr. Lamanna asked who actually owns and controls it.

Ms. Owen said the Federated Church. She said they own the property so we are not sub-leasing, we are just leasing it.

Mr. Lamanna said you have a separate entity.

Ms. Ann Lentz testified by saying no, it is a separate 501(c)(3).

Mr. Lamanna asked who gets to select the people who run that.

Ms. Lentz said they have a separate board, we are on the board of that, we are also involved with Federated Church, they are two separate entities, they are aligned through the mission of each organization. She said they are planning to have a mission council in order to make sure that our mission is closely aligned with Federated and that our organizations are aligned. She said that advisory council would be made up of community members at large as well as Federated Church members.

Mr. Lewis said he didn't quite get that, your explanation between these two entities and he wants to try to understand if you are friends or if you sit on various boards together but the Federated Church is one self-standing entity on its own.

Ms. Owen said that is correct.

Mr. Lewis said the Community Life Collaborative is not the Federated Church, it is a completely separate 501(c)(3) entity even though both of these businesses have a relationship they are two separate distinct business entities, correct.

Ms. Lentz said that is correct.

Mr. Lewis said got it, okay, so he has a ton of questions but he will let them finish their presentation first.

Ms. Owen said you can ask.

Mr. Lewis asked them if they are aware that the permit with the church being there, in a residential section, was a permitted use for the sole purpose of church related and serving only its direct congregation with activities and faith based events, that is the basis that the use exists today, there are no permitted uses today outside of that. He said now we get into, as he understands it, the church has a revenue issue with this building, they are looking for a tenant, they have been looking for a tenant for a while so we have a new group that wants to come in that is not the Federated Church and in checking the website and doing some research on Community Life Collaborative they have all kinds of activities which are unrelated to serving directly the Federated Church and its congregation to which these permits and use exists today. He said he is also gathering that Community Life Collaborative, he believes intends to sub-lease again to different entities within that building, you can rent the room, you go to a big building and maybe they sell antiques and within this building of antiques there are separate kiosks of people that rent and sell their products, these mini kiosks, so he seeing that this thing is being subdivided and cut and cut and recut and none of these activities have anything to do with what the existing permitted use was granted for which was for the business of the Federated Church, its religious and faith programs and directly serving its congregation.

Mr. Lewis continued by saying he also notes that there were heavy restrictions put on this property with outdoor usage which excluded things such as non-congregational activities, no travel sports team leagues and the list goes on and on so he is trying to understand what your business model has to do with what this property has been permitted for use for in a residential district because it doesn't even seem to be close. He said there is no revenue coming in from the building and the Federated Church has to either find tenants or sell it so that is his first blush take on this thing.

Mr. Gutoskey said he has some questions and looking through your proposal and what you are trying to do it almost looks like we are talking a permitted conditional use in a residential and trying to make it into a commercial use or an office use in a residential and looking at your website you say you offer the family life center for business meetings, fund raising events, private parties, showers, receptions, weddings, wedding receptions, children's birthday parties, recreation and sports leagues but going back to the original conditional use on this there was a condition put on as far as the fields not being available for outside groups or leagues or associations that are not part of or controlled by the Federated Church and there was another condition and this goes back to 2004 that basically said nor that anything the board is doing here deems to permit the owner to conduct any commercial activities on the premises.

Ms. Lentz said the church is focusing differently on mission and outreach and we are aligning with the mission and outreach in order to promote social equities and their intention is to increase community awareness, advocacy and service to the underserved population who need assistance and access to resources. She said social justice is the term used by the United Church of Christ and the Federated Church and we define social equities as educating the community about marginalized populations so that we might uplift and include everyone in our community. She said the Federated Church is identified as a vulnerable group through the social justice advocacy ministry and we plan to focus on building awareness around community and equities to elevate access and opportunity for those who are differently abled and model practices that have a positive environmental impact as a commitment to future generations. She said while planning programs both onsite and virtually to offer education and panel discussions around these issues to extend the reach of the Federated Church. She said we hope to raise the collective awareness of our community to make it a healthier and more sustainable place for everyone. She said we will be closely aligned with the missions of Federated Church and our organization is structured to have the mission council as she mentioned before so that we are sure to be in alignment and responsive.

Mr. Gutoskey said he has another question as far as what hours would you look at doing this, what days of the week and what kind of traffic is it going to generate only because typically a lot of the use on that property is weekends, what kind of use would it have during that week that could generate additional traffic.

Ms. Owen said she wants to clarify something, they actually haven't been using it for events in quite a while, that is kind of an old thing on the website so what they wanted to do is use it for their mission and do more classes and use it for their mission to do with social equity and environment and that would be the purpose of the building, that is what we wanted to do but we are not able to do that because we are not staffed to do it so instead of Federated trying to do that the Community Life Collaborative would come in and serve that purpose so they would be extending our mission, they are going to be doing the things they would do in the church but they are going to be doing it at that property in Bainbridge.

Ms. Maren Koepf testified that the reason for forming a separate 501(c)(3) partially is because that allows this organization to be able to have access to funds and grants that are not available to the church that way we will be able to extend the mission outreach.

Ms. Bridey Matheney testified that right now it is how the property is being used, people are using the property right now and do you really see an increase in traffic.

Ms. Koepf said right now they are restoring the gardens, they have been seeing many members of the community walking, walking their dogs, the children come and play in the ponds and it has been used as a park for the surrounding communities and they want to restore the land and preserve that, they don't anticipate much more traffic because there won't be programs that will be drawing a lot of traffic, it will be a lot of property development in terms of agriculture.

Ms. Lentz said in the short term she thinks they are looking at sharing a space with community education programs or organizations that have a need for socially distant learning or activities. She said they have partnered in the past with AA and Al anon and we would continue to support those groups. She said Cleveland Legal Aid has been looking for a more central location for consulting small groups, local field kitchens need space in our industrial kitchen. She said we are talking about building community, facing out and doing the mission of the church through a lay lead endeavor that is a separate entity but aligned with the mission of the Federated Church.

Mr. Lamanna said unfortunately when you have been around here so long you go back to the beginning and you know exactly where everything started and how it started and under the circumstances it started and there was a lot of angst originally on this thing, structuring it so it actually fit in with the permitted conditional use in a residential area of a church and that that is what is allowed so the question of what we always wrestle with is where do the activities stop being a church, worship oriented activities, that is what the focus of the permitted zoning is and where do you draw the line because if the Green Peace or NRVC wanted to set up a facility in Bainbridge as a 501(c)(3) they couldn't do that in a residential district, a commercial district would be fine but in a residential district they couldn't do that so the 501(c)(3) doesn't give them any cache.

Mr. Lamanna continued by saying you sort of create a problem for yourself when you say we organized this because it provides us a source of funding that is not available to churches so when you say that it undercuts your argument on the basis that you are going for stuff that is not available to churches yet the whole zoning here is predicated on it being a church.

Ms. Koepf said they are not going for uses that are not available to churches they are going for uses that are.

Ms. Owen said she thinks also there are a lot of different organizations that won't fund religious organizations.

Mr. Lamanna said right, he is quite familiar with that, it undercuts your argument here but this is something we have been struggling with all of the time is where is the line, where do you stop really being a church and religious oriented things and where do you start becoming something, yes that is true, every church has certain social outreach activities that are going on but at what point do you suddenly say you can't put everything in the world under this, you can't say you are going to put 1,000 different things under "social justice" and then you start saying no that is not what was contemplated here, you've gone beyond that. He said you start to do health and wellness so you are going to have classes in this and that and we won't let the guy who runs the tennis club have certain kinds of classes that are beyond a tennis club but there are certainly far closer associated with him doing it than you doing it having different types of physical activities to promote health and wellness so this is the kind of struggle we have is where does this line get drawn because you are in a residential area and part of the idea that there are certain things that we allow in a residential area but we are not going to go beyond those things and what you have presented is very interesting but it presents a lot of really difficult issues as to where that line gets drawn and how are you maintaining still a close enough nexus to the church and some kind of worshipping, how you contemplate that term but you can get some ideas as to what that means and again we look at yes, churches do a lot of things and we don't have much of a problem that the church organizes activities and they have meetings and people come and work on things but when you start getting outside groups coming in and doing something on your facility although you may be interested in helping that outside group, you talk about the Legal Aid Society coming in, he would say that is beyond, that is past the bright-line test, that is the other side of it. He said there are some things he can say are here and some things he can say are here and in the middle there is a certain gray area, he is not sure he can draw an absolute bright-line and say he knows for sure everything on this side, in the middle there is some stuff that almost has to be addressed, each one on its own merit, because you can't craft a rule that is going to work and all of the situations are going to fall in that area so that's where this kind of poses a difficult problem for us in terms of defining these activities and the farther you go towards involving outside groups or having your outside groups who do something that they want to support this sort of thing and then an outside group wants to come and use the facility for its fundraising.

Mr. Lamanna continued by saying he thinks we are getting too afield here because then we have to start looking at each of these individual groups and they are not really a church group, they've got other interests and sometimes not religious organizations so this is why the board has a lot of questions and again trying to evaluate what we have to evaluate for a conditional use to try and figure out specifically what this means and that is why very broad terms are very difficult for us to deal with in this process and we can't make decisions without specific facts. He said you can say you want a conditional use to do x, we can deal with that but when we can't understand what you are trying to do here and he sees there are some things that are alright and he sees some things he can say are not alright and there are some things in the middle that maybe can go one way or the other and especially if you look at it and say yes we can do that but here is the condition to doing this, you can do it this way but not this way so there are three or four groups.

Ms. Lentz said to her understanding of social justice and the church's vision of social justice and their organization's vision of social justice is helping those who are less resourced, to marginalize etc. She said the example that you needed is crossing the red line or whatever is the Cleveland Legal Aid Society which none of this is set in stone, we've had conversations etc. but that is an organization that is helping people.

Mr. Lamanna said but here is the problem, your premise is my definition of social justice, it is so expansive that it can cover anything, under that he can bring in anything almost and then you are going beyond what was contemplated in the zoning that allows this. He said this is not somebody saying you can't do something anywhere, or you can't do this in some commercial district, what we are saying is you are in a residential district, that limits what you can do, it is not unbridled because you say you are helping somebody, there are a ton of people who help somebody but they can't come and open up a facility because they are not going to fit into the permitted definition. He said that is the problem you pose when you have a very expansive definition, he does not know if we can grant something with that expansive of a definition because there is no way to understand exactly what it means and it can be so elastic that there is no limit to it and anything in the world he could cleverly shoehorn under it, you can do anything under social justice, then you can do anything pretty much. He said you might think Legal Aid is help, yes he agrees they are helping people but he is sorry, they have to have their operation somewhere else, that is getting far enough afield that it would be like saying we need to raise money so we are going to run a restaurant, the end may be to help people but it is a balance, yes you are helping people but it is not really the type of use that is permitted in a residential district so that is our issue, that is our difficulty in trying to look at something like this and craft a way to do it, like he said we already started off in the beginning when this place was built he spent a lot of time working on this and figuring out how to craft it so that we could fit what Federated generally wanted to do which was far more limited at that time and say if you do this, if you do this, we tweaked it and did a few things we were able to structure it so it worked under the zoning and what they were doing so we spent a lot of time tweaking this and figuring out how we could do the gymnastics to make it happen.

Ms. Koepf said in the United Church of Christ there is big emphasis across the country in environmental justice which is creation justice and that is being able to take care of the land so it is a big part of their filter vetting the collaboration that we would want to cultivate, for example we have been mowing far too much of that land, it needs to be cultivated in ways where we would have an apiary and have the Western Reserve Land Conservancy coming and creating the habitat and we would be able to educate and advocate for taking care of the earth.

Mr. Lamanna said we are not here to argue what is worthwhile or not worthwhile, people sometimes think we are making value judgments on what people are doing, we are not making a value judgment, you may be doing perfectly good, noble and wonderful and he might personally support it but it may not fit into zoning, like a park, technically a park you can't run a park, there are actually zoning districts for parks, there are separate zoning districts for parks so you couldn't say you are going to establish a park here and let people come into it, no you can't establish a private parkland because it doesn't fit in with the zoning and you have to have the proper zoning district for that, you can petition somebody to include you in it but that is a different process so that is the difficulty here, what fits and what doesn't.

Ms. Koepf said the land preservation and conservation fits exactly into the United Church of Christ and Federated Church's mission statement, it is what we are working on at church.

Mr. Lamanna said you can't have a situation where somebody says they are a church and this is what we decided our mission is therefore we can do it that is why technically this is somewhat more of a limited definition in the zoning, it really talks about worship and all of the ancillary things one could argue maybe or maybe not are allowable but we try to take a reasonable approach to it that says okay yes these things are church oriented things but after a while and too many other people start getting involved and other organizations are getting involved that have various separate aspects to them then you reach the point where stop, you can do these things and you can't do these things.

Ms. Anne Burr via Zoom asked to testify.

Mr. Lamanna swore in Ms. Anne Burr and he let the record reflect that Ms. Burr was duly sworn.

Ms. Burr testified that she wanted to clarify what Mr. Todd Lewis said a while ago about Federated looking for tenants. She said she thinks it is important for you to understand the origin of what we are doing. She said Federated was considering selling the Family Life Center and the group of members were very concerned because it is a sacred space for the members of Federated, there is a memorial garden there, there are a lot of connections to that building and we all gave money and time and effort to build that and we didn't want to have that be gone from our church and so we formed a group to figure out if we can extend Federated's mission, not with the intention of becoming a separate entity but actually using the property to extend their mission into the community so that they can actually keep it. She said as they learned more about how to do this we learned that we needed to form a separate entity just to be able to as we stated be able to have access to funds that churches don't have only to be able to make us viable and we had to take it to a vote of the congregation for us to be able to do this and the congregation overwhelmingly voted to go forward with this entity because members of the church don't want to lose it.

Mr. Lamanna said he hates to be difficult but it is 11:20 P.M. and we've got to get to the point here and he understands your story is interesting but we have to wrap this up in about five minutes, we are not going to be here after midnight.

Ms. Burr said she understands, she just wanted to give a little background.

Mr. Jose Feliciano asked to testify via Zoom.

Mr. Lamanna swore in Mr. Jose Feliciano and he let the record reflect the Mr. Feliciano was duly sworn.

Mr. Jose Feliciano testified that he will be brief and he wanted to thank Ms. Melissa Owen for reaching out to the community before, they have never done that before and thought that was really positive and he expressed his concerns to her about noise, and she thinks that the activities that she explained to him he thinks primarily go on inside and maybe some stuff outside but since that time as he looked at this thing he sees that the beehive is right behind his property and he is very concerned about that beehive and the more that he reads about that the more uncomfortable he gets and so before anything happens and sooner you get beyond the issue there the question is what is involved in there and what is the size of it, how many bees are there, are there going to be thousands of bees there, does he have to be concerned about his grandchildren and this thing is right behind his property there and he doesn't want to have to be concerned about his grandkids when they come over that there is going to be a beehive there and as he has done research bees attract other bees and other things so he just wanted to make sure that he read that as a significant concern from his point of view just on the use of the property and urge the church, they reached out to him before and he thanks them for that, he didn't raise that subject until one of the neighbors raised it with him but he just wanted to make sure he gets that in the record.

Mr. Lamanna said thank you. He said he thinks what we need to do is become a little more focused, a little more specific and maybe if we can have a little more time to look at some of these things and if you go back and kind of look at them and try to crystalize a little bit more what you are thinking about and then we can look at specific categories of things and say okay, it fits here, this looks good, it fits here, forget about this, in the middle it may be okay if you A, B and C you can do these and some of them you may have to come back and visit us again if you want to do some of these other things, when you have something really concrete in mind and then we can deal with it.

Ms. Koepf said some of it is challenged because of the pandemic, it is hard to be concrete.

Mr. Lamanna said our problem is we need to deal with specifics, we need to deal with something that is fairly specific and like he said this is not an easy area, it is a very difficult area, it is not easy for us and it is not easy for you. He said we obviously have to look at it, we have got to maintain some kind of organized structure because they rank from your property here to right down the street here, a little tiny church that is on a small property that is close into other houses, there is one down on Country Lane, the same way so there are a lot of different situations and we have to maintain consistent structure, we can't be treating one place one way and one place a different way unless there is some very good reason but we appreciate you coming in tonight and sorry it took so long but our process is a little slower with the Zoom meetings, we have been reasonably successful at keeping it moving along quickly but not quite as efficient.

Ms. Matheney asked if we are continuing this.

Mr. Lamanna said yes we will continue it to next month to give us a chance to look at, there is a lot of stuff here that he went through and he would like to go through it a little bit more.

Ms. Matheney asked if the township is dealing with the definition of place of worship right now or are we doing a different definition, she just wants to make sure she knows which one you are using.

Mr. Lamanna said we are dealing with what the permitted use is in the district and he thinks we have to start from there.

Ms. Matheney said because she thinks the zoning commission is looking to change that definition.

Ms. Endres said she would have to go back and look, they are modifying some of the definitions.

Mr. Lamanna said that is one of things he wants to look at very closely because his guess is that the people on the Zoning Commission have no where near the idea what we do here dealing with these issues on a regular basis and it is really easy to think we can do this and the next thing you know is you've lost control.

Ms. Matheney said she doesn't know if it is necessarily more expansive but her question is since they submitted their application she just wants to make sure which definition they fall under, that is her concern.

Mr. Lamanna said he would guess the changes become more expansive.

Ms. Matheney said she doesn't know, right now we have a place of worship as kind of like a place where people come and assemble for religious reasons and other social related events and she thinks that is changing, actually a place of worship is now synonymous with church and not necessarily and other related social events, that is her concern and she is wondering which definition it will fall under.

Mr. Lamanna said if in fact they are really that much different. He said part of some of these things is to clarify what is there so people aren't coming in and asking what exactly does this mean and we have to sit here and interpret what it means in the broader context and sometimes this is the way we have been interpreting it so maybe it makes sense to just codify it so people can read it and understand and they won't be having to come in and ask somebody to interpret it all of the time.

Ms. Koepf said what it means to be a church is changing regularly.

Mr. Lamanna said yes, he knows, he is closely involved, he is well aware of that.

Ms. Koepf asked what they can do going forward to help with the application.

Mr. Lamanna said he thinks is to really hone in specifically especially when you start talking about the more ancillary organizations as to what kinds of things you are contemplating, what kind of uses, what your specific facility has, he knows you have a big kitchen there.

Ms. Koepf said Meals on Wheels.

Mr. Lamanna said various holiday dinners have been sponsored out of there. He said this is how you might use your classrooms and then we've got something a little more concrete to get our arms around. He thanked them for coming and apologized for them having to wait so long tonight.

Since there was no further testimony, this application was concluded.

Motion BZA 2020-22 – 16349 Chillicothe Road – Federated Church

Mr. Lamanna moved to table this application to the next regularly scheduled meeting to be held September 17, 2020.

Mr. Gutoskey seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Since there was no further testimony, the public hearing was closed at 11:30 P.M.

Respectfully submitted,

Brent Barr, Alternate
Michael Corcoran
Ted DeWater
Ian Friedman, Alternate
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman

Attested to by: Linda L. Zimmerman, Secretary
Board of Zoning Appeals

Date: September 17, 2020

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
August 20, 2020

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 11:30 P.M. by Mr. Michael Lamanna, Chairman. Members present via Zoom were Mr. Brent Barr, Alternate; Mr. Michael Corcoran; Mr. Ian Friedman, Alternate; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Ted DeWater was absent. Ms. Karen Endres, Zoning Inspector was present. Mr. Jeffrey Markley, Bainbridge Township Trustee was present to monitor and host the Zoom meeting.

MINUTES

July 16, 2020

Mr. Lamanna moved to adopt the minutes of the July 16, 2020 meeting as modified by one change that the secretary has included.

Mr. Barr seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

April 30, 2020

Mr. Lamanna moved to adopt the minutes of the April 30, 2020 meeting as written with respect to application 2019-44.

Mr. Lewis seconded the motion.

Vote: Mr. Barr, aye; Mr. Corcoran, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

APPLICATIONS FOR NEXT MONTH

Application 2020-22 by Federated Church by Melissa Owen, Senior Director of People and Operations for property at 16349 Chillicothe Road - Continuance

The applicant is requesting an expansion of an existing conditional use. The property is located in a R-5A District.

Application 2020-24 by Adam Feig for property at 8360 Timber Trail - Continuance

The applicant is requesting area variance(s) for the purpose of constructing an accessory building. The property is located in a R-3A District.

Application 2020-25 by Paul Taylor for property at 8905 Southbrook Trail

The applicant is requesting area variance(s) for the purpose of constructing additions. The property is located in a R-3A District.

Application 2020-26 by Mark Jerome for property at 17126 Cats Den Road

The applicant is requesting area variance(s) for the purpose of constructing a garage addition. The property is located in a R-5A District.

Application 2020-27 by Matheus Bulho for property at 17765 Fossil Drive

The applicant is requesting area variance(s) for the purpose of constructing an in-ground swimming pool and patio. The property is located in a R-5A District.

Application 2020-28 by Barry and Angela Broadbent for property at 8171 Westhill Drive

The applicants are requesting area variance(s) for the purpose of constructing a shed. The property is located in a R-3A District.

Application 2020-29 by William Fehrenbach, Vice President of Project Management for South Franklin Circle at 16600 Warren Court

The applicant is requesting a review, renewal and an expansion of an existing conditional use for the purpose of installing a gate and guard shelter. The property is located in a R-3A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for September 17, 2020 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 11:49 P.M.

Respectfully submitted,

Brent Barr, Alternate
Michael Corcoran
Ted DeWater
Ian Friedman, Alternate
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman

Attested to by: Linda L. Zimmerman, Secretary
Board of Zoning Appeals

Date: September 17, 2020